

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0593-06
Bill No.: SCS for HCS for HB 111
Subject: Courts; Domestic Relations
Type: Original
Date: May 9, 2011

Bill Summary: This proposal makes various changes relating to courts.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2012 | FY 2013 | FY 2014 |
| General Revenue | Unknown | Unknown | Unknown |
| | | | |
| Total Estimated Net Effect on General Revenue Fund | Unknown | Unknown | Unknown |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2012 | FY 2013 | FY 2014 |
| Basic Legal Services | \$0 | \$0 | \$0 |
| | | | |
| Total Estimated Net Effect on <u>Other</u> State Funds | \$0 | \$0 | \$0 |

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 11 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2012 | FY 2013 | FY 2014 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|----------|----------|----------|
| FUND AFFECTED | FY 2012 | FY 2013 | FY 2014 |
| | | | |
| | | | |
| Total Estimated Net Effect on FTE | 0 | 0 | 0 |

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|--|----------------------------------|-----------------------------------|-----------------------------------|
| FUND AFFECTED | FY 2012 | FY 2013 | FY 2014 |
| Local Government | Could exceed \$83,333 | Could exceed \$100,000 | Could exceed \$100,000 |

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the State Auditor, Department of Public Safety - Missouri Highway Patrol** and the **Department of Revenue** each assume the proposal would not create a fiscal impact on their respective agencies.

Officials from the **Department of Corrections (DOC)** state;

§ 302.020, 302.321, 303.025, and 311.325 changes do not impact existing penalty provisions, therefore there is no fiscal impact from these sections.

§ 566.147. -- Penalty provisions, the component of the bill to have potential fiscal impact for DOC, is for up to an existent class D felony. Currently, the DOC cannot predict the number of new commitments which may result from the expansion of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

Due to the inability to find suitable housing for sex offenders, the additional restriction could result in a higher utilization rate of the Community Supervision Centers, Community Release Centers, and Residential Treatment Facilities. Therefore, DOC may have a \$0-Minimal impact due to this section.

§ 568.040. - Criminal nonsupport has penalty provisions, the component of the bill to have potential fiscal impact for DOC, is for up to an existent class D felony. Currently, the DOC cannot predict the number of new commitments which may result from the expansion of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

§ 589.040.-- Offenders currently complete their treatment programs before being considered for parole or conditional release so passage of this proposal would not fiscally impact DOC.

Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in direct offender cost either through incarceration (FY10 average of \$16.397 per offender, per day, or an annual cost of \$5,985 per

ASSUMPTION (continued)

inmate) or through supervision provided by the Board of Probation and Parole (FY10 average of \$3.92 per offender, per day or an annual cost of \$1,431 per offender).

The DOC is unable to quantify the possible fiscal impact of the combined modifications of the provisions in this bill, but it is believed to be \$0 to minimal.

§221.025, 544.455, 544.470, & 557.011 (Electronic Monitoring)

Officials from the **Department of Corrections (DOC)** state § 221.025 allows the judge to sentence an individual to electronic monitoring as an alternative to confinement, this shall not be considered custody or incarceration for the purposes of eligibility for the MO Healthnet program or for an individual's health care plan. There would be no impact to the department from this section.

DOC states § 544.455 1. (6) allows for any individual who is charged with a bailable offense to be placed on electronic monitoring. Any person that is placed on house arrest shall be charged all costs associated with electronic monitoring. If the judge finds that the individual is unable to afford these charges, the judge shall not order the person to be placed on electronic monitoring. Currently, the DOC can not predict how the prosecution and judges would utilize the use of electronic monitoring, but would be a savings to the department if more individuals were sentenced to electronic monitoring.

DOC states § 557.011.6 allows that for a sentence of confinement a court may order that an individual shall serve all or any portion of such sentence on electronic monitoring, except that all costs associated with the electronic monitoring shall be paid by the individual. If the judge finds that the individual is unable to afford the costs associated, then the judge shall not order that the person be on house arrest with electronic monitors. Currently, the DOC can not predict how the prosecution and judges would utilize the use of electronic monitoring, but would be an unknown savings to the department if more individuals were sentenced to electronic monitoring.

In response to a similar proposal from 2010 (HB 2442), officials from **St. Louis County** stated the overall fiscal impact to Justice Services would be favorable. The cost benefit would be the potential for persons to be on Electronic Home Detention (EHD) as opposed to being in jail and the associated cost. However, a need would exist to hire an additional case manager to monitor persons on EHD as the number of persons on EHD increases. Reimbursement by the person on EHD and by the state would be critical to keeping the fiscal impact more manageable.

ASSUMPTION (continued)

According to the Section 221.105, the Department of Corrections must reimburse a county for the actual cost of housing a prisoner, up to \$37.50 per day. The appropriation for this reimbursement to the county level from the Department of Corrections totaled \$38,060,616 for the current budget year (Section 9.265 of HB 2009), \$43,060,616 for FY 2010 and \$43,060,616 again in FY 2009.

This legislation states that the offender must pay for the electronic monitoring; therefore, Oversight will assume the proposal could result in net unknown savings to the General Revenue Fund. Oversight is also unsure of how many such offenders would be sentenced to house arrest under the new program.

Oversight assumes the proposal would not have a fiscal impact to counties since they can receive reimbursement from the state for either jailed confinement under the current statutes or under the new option of house arrest with electronic monitoring under this new program.

§477.650 (Extension of sunset date for Basic Legal Services Fund);

Officials from the **Attorney General's Office** assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Office of the State Courts Administrator (CTS)** state the proposed legislation would extend the sunset of the Basic Civil Legal Services Fund from 2012 to 2018. The Basic Civil Legal Services Fund provides low income Missourians with equal access to the civil justice system. Moneys are paid to the Office of the State Court Administrator and credited to the fund, which is administered by the Supreme Court.

In addition to the other fees authorized by law, the clerk of each court collects fees on the filing of any civil and criminal action or proceeding, including an appeal: Supreme Court and Court of Appeals \$20.00; Circuit Courts \$10.00; Associate Circuit Courts \$8.00. The fund collects and disburses approximately \$3,000,000 in any given year.

ASSUMPTION (continued)

According to reports from the Office of the State Treasurer, the Basic Civil Legal Services Fund (0757) had the following activity for the previous four fiscal years:

| Year | Receipts / Transfers In | Disbursements / Transfers Out | Ending Balance |
|---------|-------------------------|-------------------------------|----------------|
| FY 2007 | \$3,283,542 | \$3,293,733 | \$38,231 |
| FY 2008 | \$3,609,493 | \$3,490,072 | \$167,575 |
| FY 2009 | \$5,104,082 | \$4,121,897 | \$1,149,461 |
| FY 2010 | \$4,753,144 | \$5,651,328 | \$250,976 |
| Average | \$4,187,565 | \$4,139,258 | |

Oversight will reflect annual receipts and disbursements from the fund of \$4.1 million if the fund is not allowed to sunset (the bill is passed). Currently, the fund is set to expire on December 31, 2012; therefore, Oversight will reflect six months of activity in FY 2013 for the period of January 1, 2013 - June 30, 2013.

§484.350 (Update of standards for Guardians ad Litem);

In response to a similar proposal from this year (HB 165), officials from the **Department of Social Services (DOS)** stated this requires that the Missouri Supreme Court standards for representation by guardians ad litem be updated. The bill does not address how often they should be updated; just that they be updated from the standards originally adopted in September, 1996.

The fiscal impact to the Children's Division and the Family Support Division is unknown. Updating the Supreme Court standards does not fall within the authority of the Children's Division or the Family Support Division. Without knowing what changes the Supreme Court might make to the existing standards, it is impossible to assess the fiscal impact, if any, to the Department of Social Services.

Oversight assumes the Supreme Court could make updates to the standards that would have no fiscal impact to the Department of Social Services. Oversight also assumes the bill simply requires the Supreme Court to update the standards and assuming the possible updates may create a fiscal impact to state agencies is speculative and not considered a direct fiscal impact of the proposal. Therefore, Oversight assumes the proposal would not have a fiscal impact.

ASSUMPTION (continued)

§570.080 & §578.150 (Crime of receiving stolen property & stealing leased property);

In response to a similar proposal from this year (SB 425), officials from the **Office of Prosecution Services** assumed the proposal would not fiscally impact their agency.

In response to a similar proposal from this year (SB 425), officials at the **Office of State Public Defender (SPD)** stated they could not assume that existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the enhanced penalties for receiving stolen property.

Passage of bills increasing penalties on existing crimes, or creating new crimes, requires the State Public Defender System to further extend resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials from the **Department of Corrections (DOC)** state;

§ 570.080 proposes to revise the punishments for receiving stolen property. The penalty provision for this section is for up to a class B felony. Supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Seventeen (17) persons would have to be incarcerated per each fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

§ 578.150 Existing penalty provisions for violations for failure to return leased or rented is for a class A misdemeanor or a class C felony. In FY10 there were 7 new felony admissions to DOC with the failure to return leased or rented property. Crime criteria is expanded for this stealing crime which may make it easier to arrest and/or convict, however this cannot be estimated. Raising the minimum of the value of the stolen property for a felony from \$500 to \$1,000 has the potential to somewhat decrease the number of felony charges, however this positive impact cannot be estimated either. In summary, it is assumed the two impact components of this bill would offset each other and that any positive fiscal impact would be less than \$100,000 per each year.

ASSUMPTION (continued)

§632.312 (Sheriffs to receive payment for transporting persons to/from mental health facility);

Officials from the **Department of Mental Health (DMH)** state total costs for the proposed legislation are unknown and data does not exist to calculate the cost. Since many counties do not bill at all for mileage, calculating the potential costs of deputy time is impossible. It is possible that these entities would begin billing if they could recoup the “actual costs”, but whether they would is unknown. Other costs could also be included in the total actual cost.

The proposed legislation would seem to allow a sheriff to seek reimbursement for any transport to and from a mental health facility whether or not the transport was the result of a court order as long as the transport was pursuant to Section 632, RSMo. The number and extent of such transports is unknown. Therefore, the DMH is unable to accurately calculate the cost. The DMH estimates an unknown cost, greater than \$100,000 annually.

In response to a similar proposal from this year (SB 428), officials from the **Boone County Sheriff's Office** stated this has the potential to provide very minimal revenues. Local established procedures have reduced the number of probate transports from the hospital to the courts and back to near zero. Video links have been established for mental health hearings.

Oversight will assume the net savings to the state from electronic monitoring will be more than the potential costs to the Department of Mental Health for reimbursing local sheriffs for the transportation to/from mental health facilities plus the cost to the Department of Corrections for the increased penalties for receiving stolen property.

| <u>FISCAL IMPACT - State Government</u> | FY 2012 (10 Mo.) | FY 2013 | FY 2014 |
|---|------------------------------------|-------------------------------------|-------------------------------------|
| GENERAL REVENUE FUND | | | |
| <u>Savings</u> - Department of Corrections Nonviolent offenders sentenced to house arrest with electronic monitoring which is to be paid by offender (Sections 221.105, 544.455, 544.470, 557.011) | Unknown | Unknown | Unknown |
| <u>Costs</u> - Department of Corrections Supervision / incarceration for offenders (Sections 570.080 & 578.150) receiving stolen property & stealing leased property | (Less than \$100,00) | (Less than \$100,000) | (Less than \$100,000) |
| <u>Costs</u> - Department of Mental Health Increase in transportation costs paid to sheriffs' departments (Section 632.312) | (Could exceed <u>\$83,333</u>) | (Could exceed <u>\$100,000</u>) | (Could exceed <u>\$100,000</u>) |
| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | <u>Unknown</u> | <u>Unknown</u> | <u>Unknown</u> |
| BASIC CIVIL LEGAL SERVICES | | | |
| <u>Income</u> - Office of the State Courts Administrator The expiration date of the fund is moved from 2012 to 2018. (477.650) | \$0 | \$2,050,000 | \$4,100,000 |
| <u>Expenses</u> - Office of the State Courts Administrator Proceeds of the fund are utilized according to Section 477.650 | <u>\$0</u> | <u>(\$2,050,000)</u> | <u>(\$4,100,000)</u> |
| ESTIMATED NET EFFECT TO THE BASIC CIVIL LEGAL SERVICES FUND | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |

| <u>FISCAL IMPACT - Local Government</u> | FY 2012 (10 Mo.) | FY 2013 | FY 2014 |
|---|---------------------|---------|---------|
|---|---------------------|---------|---------|

LOCAL GOVERNMENT

Income - Sheriffs' Departments

| | | | |
|---|--------------------------|---------------------------|---------------------------|
| Reimbursement for transporting persons to/from mental health facilities (Section 632.312) | Could exceed \$83,333 | Could exceed \$100,000 | Could exceed \$100,000 |
|---|--------------------------|---------------------------|---------------------------|

ESTIMATED NET EFFECT ON LOCAL GOVERNMENT

| | | |
|--|---|---|
| <u>Could exceed</u> <u>\$83,333</u> | <u>Could exceed</u> <u>\$100,000</u> | <u>Could exceed</u> <u>\$100,000</u> |
|--|---|---|

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

Sections 221.025, 544.455, 544.470, 557.011 - changes the laws regarding house arrest for certain offenders with electronic monitoring or shackling. The proposal states that all costs associated with the electronic monitoring shall be charged to the person on house arrest. If the judge finds the person unable to afford the costs associated with electronic monitoring, then the judge shall not order that person be placed on house arrest with electronic monitoring.

Section 477.650 - extends the expiration date on the Basic Civil Legal Services Fund from December 31, 2012, to December 31, 2018.

Section 570.080 - specifies that receiving stolen property is a Class A misdemeanor unless the value of the property or services exceeds \$500, the property has been physically taken from the person of the victim, or if the property is of a certain description. In those cases, the offense is a Class C felony. Receiving stolen property is a Class B felony if the value of the property or services equals or exceeds \$25,000.

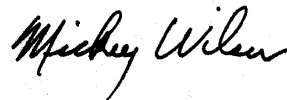
FISCAL DESCRIPTION (continued)

Section 632.312 - allows a sheriff to receive reimbursement for the actual costs of transporting a person to and from a mental health facility, from a public or private hospital, a non-profit charitable organization, the state, or a political subdivision.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the State Courts Administrator
Department of Corrections
Office of the Attorney General
Department of Social Services
Office of the State Auditor
Department of Public Safety
Department of Revenue
Office of the State Public Defender
Office of Prosecution Services
Department of Mental Health
Boone County
St. Louis County



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Director
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